

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.16148 of 2020

Deepak @ Deeparam

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Salavakkam Police Station,
Kancheepuram District
(Crime No.1164 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1164 of 2020 on the file of the Respondent.

For Petitioner : Mr.G.Punniakoti

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 353 and 294 (b) of IPC r/w. 22 (a) COTPA Act, 2003 in Crime No.1164 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. It is the case of the prosecution that the petitioner was in possession of 4500 Pockets of Hans, 11200 pockets of chewing tobacco, 6600 pockets, 21300 pockets and 1800 pockets of different tobacco products illegally. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that on the same day i.e., 12.09.2020 the petitioner was arrested in the case in Cr.No.1458 of 2020 registered by the Uthiramerur Police Station. He would submit that the petitioner was later enlarged on bail. While he was in custody, a false case has been registered by Salavakkam Police Station, apart from that there is no other case is pending against him. On instructions, he would further submit

the petitioner is prepared to donate/pay some considerable amount to any charitable organization or association without prejudice to his defence and prayed for grant of anticipatory bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that both the cases were registered by different police stations. They were not aware that the petitioner was arrested in one Crime number. However, he opposed to grant anticipatory bail to the petitioner.

5. In order to curb the illegal activities and taking into consideration the voluntary submission made by the petitioner offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioner may be directed to donate/pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to **"The Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai- 600 020 bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch"** without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposit the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking note of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions:

[a] The petitioner is directed to pay a sum of Rs.25,000/- either through RTGS/NEFT or in cash in favour of **"The Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai- 600 020 bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch"** within fifteen (15) days from the date of receipt of a copy of this order. Thereafter, the petitioner is directed to be released on bail in the event of his arrest or on his appearance and on production of proof of payment of the above amount and on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Ten thousand only) with two sureties each for a like sum to the satisfaction of the police officer who intends to arrest, failing which the petition for anticipatory bail shall stand dismissed automatically and on further condition that the petitioner shall also give a letter of undertaking before the respondent/police that the said amount has been paid in respect of particular crime number.

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] **the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders.**

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner is released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

15/10/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
UTHIRAMERUR.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SALAVAKKAM POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE CANCER INSTITUTE (WIA),
(REGIONAL CANCER CENTRE), ADYAR, CHENNAI-
600 020 BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH.

+1 CC to M/S. G.PUNNIAKOTI Advocate on payment of necessary charges SR.NO.6973

CRL OP.16148/2020

Date :15/10/2020